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Letter dated 10 March 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached sixth report from Belarus submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 1 March 2006 from the Chargé d'affaires a.i. of the Permanent Mission of Belarus to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I have the honour to transmit to you the attached information requested in your letter of 31 January 2006 on implementation by the Republic of Belarus of Security Council resolutions 1373 (2001) and 1624 (2005) (see enclosure).

The Permanent Mission of the Republic of Belarus to the United Nations stands ready to provide the Committee with additional information or clarifications that may be requested by the Committee.

(*Signed*) Sergei **Rachkov**
Chargé d'affaires a.i.

Enclosure

[Original: Russian]

Information on the implementation by the Republic of Belarus of Security Council resolutions 1373 (2001) and 1624 (2005)

1. Implementation measures

1.1 In its fifth report (p. 3), Belarus states that, in implementation of the International Convention for the Suppression of the Financing of Terrorism (1999), two draft laws on the financing of terrorist activity and money-laundering were referred to the National Assembly at its spring 2005 session. Have these draft laws been adopted? If so, the Committee would welcome specific information on measures taken to criminalize the financing of terrorist organizations, even where no actual terrorist act has been committed. If not, could Belarus provide a timeline for their adoption?

The National Assembly has adopted two laws for the purpose of implementing the International Convention for the Suppression of the Financing of Terrorism:

- A revised version of the Act of the Republic of Belarus "On measures to prevent the legalization of income obtained by illegal means and the financing of terrorism" (adopted on 11 December 2005, will enter into force on 17 March 2006);

- The Act of the Republic of Belarus "On the introduction of amendments and additions to certain legislative acts of the Republic of Belarus regarding issues connected with combating the financing of terrorist activity", by which the Act of the Republic of Belarus "On counter-terrorism" and the Criminal Code of the Republic of Belarus were amended and supplemented (adopted on 9 January 2006).

A new article of the Criminal Code, article 290-1, provides for criminal liability for the financing of terrorist activity irrespective of whether a terrorist act is committed.[1]

These laws also introduced definitions of the concepts "terrorist activity", "terrorist organization" and "financing of terrorist activity" and amended the article providing for liability for organizing terrorist activity, as well as introducing a new article to make organizations liable in the event that their officials finance terrorist activity.

Financing of terrorist activity is defined as providing or collecting, by whatever means, funds, securities or other assets, including property rights and intellectual property rights, for use in terrorist activity.

[1] Providing or collecting funds, securities or other assets for use in the financing of terrorist activity is punishable by imprisonment for 8 to 12 years with confiscation of property. The same offences, if committed more than once or by an organized group or by an official using his or her official powers, are punishable by imprisonment for 8 to 15 years with confiscation of property. A person who has financed terrorist activity may be exempt from criminal liability under article 290-1 if, by reporting in a timely manner what he or she has done and/or by some other means, he or she assists in the prevention of a terrorist act or in the detection of such an offence.

If an official of an organization uses his or her official powers and the funds of the organization to finance terrorist activity, this organization is deemed a terrorist organization and is prohibited from operating in the territory of Belarus.

1.2 It is the Committee's understanding that the draft law on money-laundering specifically addresses the issue of freezing funds "without delay" pursuant to paragraph 1 (c) of resolution 1373 (2001). Could Belarus provide further information on the actual procedures for freezing funds, the monitoring authority charged with such activities and the time frames involved (both the time needed to freeze funds and the length of time for which they can be frozen)?

The procedures for freezing funds, including the activities of the monitoring authority and the time frames involved, are set out in the Act of the Republic of Belarus "On measures to prevent the legalization of income obtained by illegal means and the financing of terrorism" and in the decision of the Council of Ministers and the National Bank of the Republic of Belarus approving the Instructions on the procedure for the suspension by banks and non-bank credit and financial institutions of certain financial transactions, which will enter into force on 17 March 2006.

Persons performing financial transactions are required to suspend a financial transaction if one of the participants is involved in terrorist activity or if the person making the transaction is directed by persons involved in terrorist activity. If such funds are received, they are credited to the recipient's account and debit transactions on the account are suspended.

The financial monitoring body (the Department of Financial Monitoring within the State Monitoring Committee):

- May issue a decision to suspend a financial transaction where there are sufficient grounds to show that the transaction is related to the legalization of funds obtained by illegal means or the financing of terrorism, in the event that this transaction is not suspended by the person performing financial transactions. The decision to suspend the transaction must be transmitted to the person performing financial transactions no later than the next working day following its issuance. A suspended financial transaction may be resumed if notification to that effect is received from the financial monitoring body.
- Must decide, with respect to a suspended transaction, within five days of receiving the special form containing information from the person performing financial transactions, either to transmit the relevant information and materials to the criminal prosecution agency or to permit the resumption of the suspended transaction. If the case is referred to the criminal prosecution agency, the funds are frozen until the completion of the criminal proceedings or the adoption of an appropriate decision by a court or other authorized body.

1.3 The Committee notes that the draft legislation, if adopted, would require financial transactions subject to special oversight to be recorded on a special form. What is the scope of application of this provision? In particular, are non-financial intermediaries such as lawyers, stockbrokers, insurance companies, gambling and betting establishments, real estate agents, dealers in precious stones and metals, etc., subject to a reporting obligation?

The requirement to record on a special form financial transactions subject to special oversight applies to:

- Banks and non-bank credit and financial institutions;
- Securities brokers;
- Persons engaged in exchange and deposit activities;
- Dealers in precious metals and stones;
- Pawnshops and resale stores;
- Insurance and reinsurance companies, mutual assurance associations and insurance brokers;
- Lottery organizers;
- Notaries;
- Organizations providing real estate services and participating in transactions involving the purchase and sale of real estate on behalf of clients;
- Organizations and individual entrepreneurs providing legal and/or bookkeeping services, and lawyers making, on behalf of or on instructions from their clients, financial transactions involving the purchase and sale of real estate, the management of funds, securities or other assets, the administration of bank accounts and/or deposit accounts, the establishment of companies or specialized subdivisions thereof or participation in their management, and the acquisition or sale of enterprises as property;
- Postal communication operators;
- Casinos, betting offices, organizers of totalizators and other gaming institutions possessing slot machines or other devices for the conduct of games of chance;
- Organizations performing State registration of real estate, real estate rights and real estate transactions;
- Organizations conducting activities involving the transfer of property subject to a lease;
- Other companies or specialized subdivisions thereof and individual entrepreneurs providing services involving the receipt, alienation, acquisition, payment, transfer, transport, sending, assignation, exchange and/or possession of funds, and persons certifying or registering civil-law transactions by persons performing financial transactions.

1.4 The Committee further notes that under the draft legislation, Belarus would establish a special State entity responsible for detecting suspicious transactions and preventing the financing of terrorism. Has such an entity been established? If so, under which Ministry or entity does it operate? If not, could Belarus provide an estimated time frame for its creation?

The Department of Financial Monitoring is the State entity responsible for detecting suspicious transactions and preventing the financing of terrorism. It possesses the rights of a legal person and operates within the framework of the State Monitoring Committee.

1.5 Regarding alternative money transfer systems, the Committee understands that non-banking credit and financial institutions are regulated under section IV of the Banking Code. The Committee would appreciate clarification concerning the institutions subject to regulation and the manner in which the monitoring is carried out.

The banking system of Belarus forms part of the financial and credit system. It is a two-tier system incorporating the National Bank and other banks. As at 1 February 2006, the banking system included 30 banks with 440 branches. Within the banking system, only banks effect money transfers.

Money transfers are also effected by postal communication operators, which are subject to monitoring by the Ministry of Communications and Information to prevent money-laundering and the financing of terrorism.

Non-bank credit and financial institutions must include in their names an indication of the nature of their activities, by using the words "non-bank credit and financial institution". They are required to register with the National Bank and must obtain a licence issued by the National Bank.

These organizations have the right to perform certain banking transactions, with the following exceptions:

- Eliciting funds from natural and/or legal persons for deposit;
- Investing the funds elicited, in their own name and for their own account, in a reimbursable, chargeable and time-bound manner;
- Opening and administering bank accounts for natural and legal persons.

The National Bank defines the permitted combination of banking transactions which non-bank credit and financial institutions may perform.

Monitoring of the activities of non-bank credit and financial institutions is conducted by the National Bank and the financial monitoring body.

1.6 With respect to charitable and non-profit organizations, the Committee would be interested in learning if any have been found supporting terrorist activities.

No charitable or non-profit organizations in Belarus have been found supporting terrorist activities.

1.7 Previous reports commented that border control measures were being implemented in cooperation with neighbouring States and that the Belarus State Committee on Border Troops was implementing increased inspection of persons and goods and creating an automated passport control system. The Committee would appreciate an update regarding the operational aspects of regulating the entry and exit of persons and goods and the interaction with asylum and refugee laws.

Updated information on the operational aspects of regulating the entry and exit of persons and goods and the interaction with asylum and refugee laws will be provided subsequently.

2. **Implementation of resolution 1624 (2005)**

2.1 What measures does Belarus have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

Belarus has established criminal liability for incitement to commit terrorism, including international terrorism.

2.2 What measures does Belarus take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

Information on measures taken to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts will be provided subsequently.

2.3 How does Belarus cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering its territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

Information on Belarus's cooperation with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering its territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures will be provided subsequently.

2.4 What international efforts is Belarus participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?

At the 2005 World Summit, the President of Belarus declared that the world could only be protected from terrorism on the basis of the principles of multi-polarity, diversity and freedom of choice. Belarus was a sponsor of General Assembly resolution 60/4, entitled "Global Agenda for Dialogue among Civilizations", and supports the initiatives of others States aimed at enhancing dialogue and broadening understanding among civilizations and preventing indiscriminate targeting of different religions and cultures.

2.5 What steps is Belarus taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and supporters?

The House of Representatives of the National Assembly adopted on first reading a draft law of the Republic of Belarus on combating extremism, which defines the legal and organizational framework for combating extremism in order to protect individual rights and freedoms and the constitutional order and territorial integrity of the Republic of Belarus and to safeguard public and State security.

2.6 What is Belarus doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations

under international law, in particular, international human rights law, refugee law and humanitarian law".

The draft legislative acts adopted to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) are being analysed in the Ministry of Foreign Affairs to ensure that they comply with Belarus's international obligations.

The Constitution of the Republic of Belarus acknowledges the paramount importance of universally recognized principles of international law and guarantees the conformity of legislation with them.

3. **Assistance and guidance**

3.1 The Committee wishes to emphasize once more the importance that it attaches to the provision of assistance and advice in connection with the implementation of the resolutions. The Committee's Directory of Assistance (www.un.org/sc/ctc) is frequently updated to include new relevant information on available assistance.

The competent national authorities have been advised to use the Committee's Directory of Assistance to seek sources of technical assistance.

3.2 Belarus is about to adopt legislation establishing a Financial Intelligence Unit (FIU), a function which up until now has been conducted by a subdivision of the Ministry of Taxes and Duties and the Department of Financial Monitoring. Technical assistance in bringing this new entity into compliance with international standards for FIUs might be particularly useful.

All monitoring functions aimed at preventing the legalization of funds obtained by illegal means and the financing of terrorism are entrusted to a single financial monitoring body, the Department of Financial Monitoring within the State Monitoring Committee.

Technical assistance in ensuring that this entity operates in conformity with international standards would be particularly useful.

3.3 The Committee would like to receive your country's approval to share the above-mentioned points with donor States and organizations that may be in a position to provide assistance in these *selected* areas (other parts of this letter will not be shared).

Belarus gives its approval for the sharing of the above-mentioned points with donor States and organizations that may be in a position to provide international technical assistance.

4. **Submission of further report**

4.1 The Committee wishes to maintain the constructive dialogue it has established with Belarus in relation to measures it is taking to implement the resolutions, in particular with regard to the areas identified in this letter as a priority. The Committee and its Executive Director stand ready to provide further clarification to Belarus on any of the matters raised in this letter. The Executive Director can be contacted through Ms. Elena Rigacci Hay (telephone: +1 212 457 1733; fax: +1 212 457 4041; e-mail: cted@un.org). In addition, the Committee, through its Executive Directorate, may contact Belarus's competent authorities to discuss any further matters related to the implementation of the resolutions.

Belarus hopes that the constructive cooperation established with the Counter-Terrorism Committee will be maintained and reaffirms its readiness to provide information and discuss any matter related to the implementation of the Security Council resolutions on counter-terrorism.

4.2 The Committee would be grateful if Belarus would provide it with an update on assistance it has received, or is in the process of receiving, including on whether such assistance has satisfied, or is expected to satisfy, Belarus's needs related to the resolutions.

Information on assistance Belarus has received, or is in the process of receiving, will be submitted subsequently.